EXHIBIT 3

CERTIFIED TRANSLATION BY: OLGA M. ALICEA, USCCI, NCJIT-S

COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
SAN JUAN SUPERIOR COURT

MANUEL DIAZ, Plaintiff v. RICHARD L. CARRIÓN JUAN J. BERMÚDEZ FRANCISCO M. REXACH, JR. MICHAEL J. MASIN MANUEL MORALES, JR. JOSÉ R. VIZCARRONDO MARÍA LUISA FERRÉ FREDERIC V. SALERNO WILLIAM J. TEUBER, JR. Defendants -and- POPULAR, INC. Nominal Defendant	Civil No. KAC 2009-1083 (603) Re: Derivative Action RECEIVED 09 SEPT -9 PM 3: 10 BANCO POPULAR LEGAL DIVISION **SAN JUAN JUDICIAL CENTER** **DOCUMENT FILING** **DIVISION** **2009 SEPT -9 AM 10: 29**

SHAREHOLDERS' COMPLAINT

TO THE HONORABLE COURT:

COMES NOW plaintiff Manuel Díaz, through the undersigned attorneys, and very respectfully **STATES**:

Plaintiff makes the following allegations based on an investigation carried out by his legal representation, which includes a review of the documents filed with the United States Securities and

Exchange Commission ("SEC") by Popular, Inc. ("Popular" or the "Company"), and documents filed with other agencies, press releases, analysts' reports, and other public declarations of the Company. Plaintiff understands that there will be documentation for the allegations after a reasonable opportunity for discovery.

NATURE AND SUMMARY OF THE ACTION

This is a derivative action by Popular shareholders on behalf of the Company against certain of its officers and directors, requesting the remediation of breaches of the defendants' fiduciary duties, abuse of control, mismanagement, squandering of corporate assets, and unjust enrichment that has caused substantial losses to Popular and other damages, such as to its reputation and goodwill, from January 23, 2008, to the present (the "Relevant Period").

JURISDICTION AND VENUE

1. The jurisdiction of this Honorable Court is warranted since Popular's headquarters are in San Juan.

2. This Court is the appropriate forum since the Nominal Defendant is located in San Juan. In addition, one or more Defendants have received substantial compensation within San Juan by conducting numerous activities and carrying out business in San Juan.

THE PARTIES

3. Plaintiff Manuel Díaz, as outlined in the Affidavit that is attached to this Complaint, is and was a shareholder during the Pertinent Period, he is of legal age, a property holder, and a resident of Arecibo, Puerto Rico.

4. Nominal Defendant Popular, through its subsidiaries, was established in the U.S. mainland in 1961. The Company offers a variety of personal and commercial banking services in the U.S. mainland, Puerto Rico, the Caribbean, and Latin America.

5. As the preeminent financial institution in Puerto Rico, with more than 300 branches and offices, the Corporation offers retail and commercial banking services through its subsidiary, Banco Popular de Puerto Rico.

6. Through other specialized subsidiaries, Popular provides the leasing and financing of autos and equipment, mortgage loans, consumer loans, investment services, broker/dealer financial services, and insurance services.

7. In the U.S. mainland, the Corporation, through Banco Popular North America, has established a community bank franchise offering an ample array of financial services and products.

8. Banco Popular North America operates branches in New York, California, Illinois, New Jersey, and Florida.

9. Defendant Richard L. Carrión ("Carrión") is, and was at all pertinent times, the Chief Executive Officer ("Chief Executive Officer" or "CEO") and President of the Board of Directors.

10. Mr. Carrión also acted as President of the Company from 1991 to January 2009.

11. Upon information and belief, Mr. Carrión is a resident of Puerto Rico and forms a community property partnership with Jane Doe.

12. Defendant Juan J. Bermúdez ("Bermúdez") is, and was at all pertinent times, a director of Popular and he also acted as a member of the Audit Committee and of the Compensation Committee.

13. Bermúdez is also the Chair of the Corporate Governance and Nominating Committee.

14. Upon information and belief, Mr. Bermúdez is a resident of Puerto Rico and forms a community property partnership with Jane Doe.

15. Defendant Francisco M. Rexach, Jr. ("Rexach") is, and was at all pertinent times, a director of Popular and he also acted as a member of the Audit Committee and of the Corporate Governance and Nominating Committee.

16. Rexach is also the Chair of the Compensation Committee.

17. Upon information and belief, Mr. Rexach is a resident of Puerto Rico and forms a community property partnership with Jane Doe.

18. Defend *[sic]* Michael J. Masin ("Masin") is, and was at all pertinent times, a director of Popular and he also acted as a member of the Corporate Governance and Nominating Committee and the Risk Management Committee.

19. Upon information and belief, Mr. Masin is a resident of New York.

20. Defendant Manuel Morales, Jr. ("Morales") is, and was at all pertinent times, a director of Popular and he also acted as a member of the Compensation Committee and Risk Management Committee.

21. Upon information and belief, Mr. Morales is a resident of Puerto Rico and he forms a community property partnership with Jane Doe.

22. During the Pertinent Period, defendant Morales sold 175,000 shares of his personal shares of the Company acting on material information not known by the public.

23. Defendant Morales received a profit of $936,500.00.

24. Defendant José R. Vizcarrondo ("Vizcarrondo") is, and was at all pertinent times, a director of Popular.

25. Vizcarrondo also acted as a member of the Risk Management Committee.

26. Upon information and belief, Mr. Vizcarrondo is a resident of Puerto Rico and forms a community property partnership with Jane Doe.

27. Defendant María Luisa Ferré ("Ferré") is, and was at all pertinent times, a director of Popular and she also serves as a member of the Compensation Committee and the Corporate Governance and Nominating Committee.

28. Upon information and belief, Mrs. Ferré is a resident of Puerto Rico and she forms a community property partnership with John Doe.

29. Defendant Frederic V. Salerno ("Salerno") is, and was at all pertinent times, a director of Popular and he also acted as the Chair of the Audit Committee and as a member of the Risk and Corporate Governance and Nominating Committees.

30. Upon information and belief, Mr. Salerno is a resident of New Jersey.

31. Defendant William J. Teuber, Jr. ("Teuber") is, and was at all pertinent times, a director of Popular and he also was a member of the Audit and Compensation Committees.

32. Mr. Teuber also acted as Chair of the Risk Management Committee.

33. Upon information and belief, Mr. Teuber is a resident of Massachusetts.

34. Henceforth, Defendants Carrión, Bermúdez, Rexach, Masin, Morales, Vizcarrondo, Ferré, Salerno, and Teuber will be described as the Individual Defendants or the Defendants.

35. During the Pertinent Period, the Individual Defendants, as senior executives and/or directors of Popular, had knowledge of confidential and proprietary information with respect to Popular, its finances, products, markets, and present and future business prospects through internal corporate documents, conversations, and connections with other corporate officers and employees, attending management meetings, and meetings of the Board of Directors, and their committees, and through reports and other information provided to them in connection with the foregoing.

36. Given their possession of such information, the Individual Defendants had access to adverse non public material information in connection with Popular, which is described in detail hereinbelow.

37. However, notwithstanding their actual possession of knowledge, the Individual Defendants knew or should have known that the adverse facts specified in this Complaint had not been disclosed and were concealed from the investing public.

38. As senior executives and/or directors of the Company, the Individual Defendants had a duty to promptly disclose correct and true information with respect to Popular's financial status, its performance, growth, operations, financial statements, businesses, products, markets, management, present and future profits, and its future business prospects, and to rectify any statement made previously that had become materially inaccurate or confusing so that the market price of Popular's common shares would be based on on *[sic]* true and correct information information *[sic]*.

THE DUTIES OF THE INDIVIDUAL DEFENDANTS

39. Due to their positions with the Company, the Individual Defendants controlled and/or had the authority to control the content of their reports, press releases, and presentations to securities analysts and, through them, the investing public.

40. The Individual Defendants received copies of the Company's reports and press releases, which as alleged in this Complaint, contained misleading information they had the capacity and the opportunity to prevent from being published or, after publishing the same, of correcting it.

41. As a result, the Individual Defendants had the opportunity to commit the illegal acts as alleged in this Complaint.

42. Because of their positions as officers and/or directors of the Company and due to their capacity to control the Company's businesses and corporate affairs, the Individual Defendants had a fiduciary duty of good faith, trust, loyalty, due diligence, and they were and are required to use their maximum capacity to control and govern the Company fairly, equitably, honestly, and correctly.

43. The Individual Defendants were required to act in the best interests of the Company and its shareholders to benefit all of the shareholders equitably and not to improve their interests or personal benefits.

44. Due to their positions of control and authority as directors and/or officers of the Company, the Individual Defendants could act and, in fact, they exercised control over the improper acts complained of in this Complaint.

45. To comply with their duties, the Company's officers and directors had the duty to exercise reasonable and prudent supervision of the Company's management, policies, practices, and controls.

46. As part of those duties, the Company's officers and directors were required, *inter alia*,

(a) to exercise good faith in assuring that the Company's affairs were carried out efficiently, in accordance with the business standards so that it would be possible to provide the highest quality of business performance.

> (b) to exercise good faith in supervising the preparation, filing, and/or dissemination of financial statements, press releases, audits, reports, or other information required by law, and in examining and evaluating any report or examination, audit, or other financial information with respect to the Company's financial status; and
>
> (c) to exercise good faith in assuring that the Company was operated diligently, honestly, and prudently, and that it complied with all of the laws, rules, regulations, and requirements, including acting solely within the margin of its legal authority.

SUBSTANTIVE ALLEGATIONS

47. On January 23, 2008, Popular published a press release announcing that it had agreed "to sell certain assets of Equity One, the U.S. mainland consumer finance operations of Popular Financial Holdings, to American General Finance, Inc., a member of American International Group." [Translation ours.]

48. The press release described the agreement "[contemplating] the sale of a significant portion of Equity One's mortgage loan and consumer loan portfolio for a purchase price of approximately $1.5 billion." [Translation ours.]

49. That same day, when receiving news of the sale, Fitch Ratings removed Popular from its "Rating Negative Watch" and affirmed its A- valuation as a bond issuer for Popular.

50. Similarly, "Moody's Investors Service" changed its perspective of Popular from negative to stable.

51. According to Moody's, the transaction "will reduce Popular's 'exposure' to the U.S. mainland mortgages below prime and will significantly strengthen the liquidity position of its parent company." [Translation ours.]

52. Given this news, the price of one share of the Company rose $1.45 per share, or 17%, to close at $10.13 per share.

53. On January 24, 2008, Popular published a press release announcing its financial results for the fourth and final quarter of the year 2007, the period ending on December 31, 2007.

54. For the quarter, the Company reported an estimated net loss of $294.1 million, compared to net revenues of $59.6 million during the same period the previous year.

55. The Company also reported an estimated and diluted loss per common share of $1.06, compared to basic and diluted profits per common share of $0.20 for the fourth quarter of the previous year.

56. Defendant Carrión, commenting on the results, stated, in pertinent part, as follows: "These are obviously disappointing results. However, we continue to take the difficult steps to improve our performance moving forward." [Translation ours.]

57. With respect to the sale of Equity One, the press release stated:

In January 2007, Popular's management announced that based on a comprehensive strategic and financial assessment of all of PFH's operations, the Corporation decided to adopt a Restructuring and Integration Plan at PFH, the holding company of Equity One (the "PFH Restructuring Plan"). The PFH Restructuring Plan called for PFH to exit the wholesale subprime mortgage loan origination business, to consolidate support functions with its sister U.S. banking entity, Banco Popular North America ("BPNA), creating a single integrated North American financial services unit, and to focus on existing profitable businesses. At that time, Popular decided to continue the operations of Equity One and its subsidiaries ("Equity One"), with over 130 consumer services branches principally dedicated to direct subprime loan origination, consumer finance and mortgage servicing. However, given the unforeseen disruption in the capital markets since the summer of 2007 and its impact on funding, Popular's management now believes that it will be difficult to generate an adequate return on the capital invested at Equity One.

As indicated in the press release dated January 23,2008, Popular, Inc. announced the signing of an Asset Purchase Agreement (the "Agreement") to sell certain assets of Equity One, the U.S. mainland consumer finance operations of Popular Financial Holdings, to American General Finance, Inc., a member of American International Group. The Agreement contemplates the sale of a significant portion of Equity One's mortgage loan and consumer loan portfolio approximating $1.5 billion. This portfolio was reclassified by the Corporation from loans held-in-portfolio to loans held-for-sale in December 2007. The Agreement also provides that American General Finance, Inc. will consider hiring an unspecified number of Equity One's consumer services employees and will consider retaining an unspecified number of branch locations. Equity One will close all remaining consumer branches. Workforce reductions at Equity One will result in the loss of employment for those employees at the consumer services branches not hired by American General Finance, Inc., as well as for other related support functions. The individuals whose jobs will be eliminated will receive from Equity One a transitional severance package, professional counseling, outplacement and support during this process.

It is anticipated that this restructuring plan (the "PFH Branch Network Restructuring Plan") will result in estimated combined charges for the Corporation of $19.5 million... " [Translation ours.]

58. The next day, January 25, 2008, Raymond James improved its valuation of Popular and declared that the Company had "rehabilitated to be less risky." [Translation ours.]

59. Given this news, the next business day, the Company's shares rose in value $1.28 per share, or 12%, to close at $12.26 per share.

60. On April 18, 2008, Popular issued a press release announcing its financial results for the first quarter of 2008, the period ending March 31, 2008.

61. For the first quarter of 2008, the Company reported net income of $103.3 million, compared to $118.6 million in the first quarter of 2007.

62. The Company also informed basic and diluted earnings per common share of $0.36, compared to $0.41 for the same quarter of the previous year.

63. Defendant Carrión, commenting on the results, stated, in pertinent part, as follows: "Excluding non-recurrent items, the quarter was a difficult one as credit and markets continued to deteriorate. We have reduced our U.S. mortgage exposure but we expect economic conditions to stay under stress." [Translation ours.]

64. With respect to the reasons for the Company's financial results in the first quarter, the press release states, in pertinent part:

> Higher provision for loan losses for the first quarter of 2008, which increased by $71.9 million as compared with the same period in 2007, driven principally by higher net charge-offs and additional reserves for certain specific commercial and construction loans considered impaired.
>
> Higher non-interest income by $55.8 million, mostly driven by increases on the sale of loans, higher other service fees and other revenues that were impacted by certain major events, which are described subsequently in this press release.
>
> The results for the first quarter of 2008 were favorably impacted by the gain on sale of VISA shares amounting to approximately $49.3 million, but on a comparative basis to the same quarter in 2007 the impact of this sale is diluted as there were also non-recurring gains on the sale of securities in 2007, primarily $118.7 million from the sale of the Corporation's interest in Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), as further described in the Non-interest Income section of this press release.

65. With respect to the losses in loans and the quality of the Company's credit, the press release states, in pertinent part:

> The decrease of $43.7 million in net charge-offs for the quarter ended March 3 1,2008, compared with the fourth quarter of 2007, resulted primarily from lower net charge-offs in mortgage loans by $45.0 million due to the decline in the mortgage loan portfolio, including of the reduction in the loan portfolio due to the PFH recharacterization and the loans accounted under the fair value option election.
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> * * *
>
> The increase in the lease financing net charge-offs to average lease financing loans ratio for the first quarter of 2008, when compared with the first and fourth quarters in the previous year, was associated with higher delinquencies in the Puerto Rico operations due to the current recessionary environment. [Translation ours]

66. On May 6, 2008, the Company issued a press release announcing that it was "planning on commencing a public offering of $350 million in perpetual preferred non cumulative shares according to Popular's current registered declaration." [Translation ours.]

67. On May 22, 2008, the Company issued a press release announcing that "it priced its public offer of perpetual preferred non cumulative shares previously announced after an increase in the size of the offer from $350 million to $400 million. The resulting offer of 16,000,000 shares was priced at 8.25% with a purchase price of $25 per share." [Translation ours.]

68. The offer concluded on May 28, 2008.

69. The Registration Statement issued in connection with the preferred shares offering did not disclose the material facts itemized in this Complaint.

70. On July 17, 2008, Popular issued a press release announcing its financial results for the second quarter of 2008, the period ending June 30, 2008.

71. For the quarter, the Company reported net income of $24.3 million, compared to $75.0 million in the second quarter of 2007.

72. The Company also reported earnings per common share of $0.06, compared to $0.26 in the same period of the preceding year.

73. Defendant Carrión, commenting on the results, stated, in pertinent part, as follows:

> We continue to feel the pressure of the turmoil in the financial markets and deteriorating economic conditions[...]. We are fully engaged in the process of evaluating various strategic alternatives to improve the profitability of our operations in the United States. Some of these alternatives may involve the sale of some of these operations. Our banking and processing businesses in Puerto Rico continue to perform well despite a weak economy. Banco Popular de Puerto Rico met our expectations for the first half of the year with that segment reporting net income amounting to $191.3 million even with significant increases in its provision for loan losses. In addition, we remain strongly capitalized with over $1 billion of Tier I capital in excess of the regulatory "well capitalized requirement."

74. The Company identified in part the following facts which impacted their financial statements in the second quarter:

> Lower net interest income by $33.5 million due to the sale and reduction of various low margin assets.
>
> Higher provision for loan losses for the second quarter of 2008, which increased by $75.5 million compared with the same period in 2007.
>
> Net losses attributable to changes in the fair value of Popular Financial Holdings' ("PFH) loans and bond certificates measured at fair value pursuant to SFAS No. I59 amounted to $35.9 million for the quarter ended June 30, 2008.
>
> Lower net gain on sale of loans and valuation adjustments on loans held-for-sale by $29.7 million for the second quarter of 2008, with PFH and E-LOAN showing a reduction of approximately $34 million. [Translation ours]

75. The press release also described the increase in assets that were not yielding profits as follows:

Non-performing assets, excluding non-performing assets measured at fair value pursuant to SFAS No. 159, totaled $1,026 million at June 30, 2008, and increased by $160 million since March 31,2008 primarily related to commercial loans by $60 million, construction loans by $45 million, mortgage loans by $31 million, consumer loans by $6 million, and other real estate by $18 million. Total non-performing loans measured at fair value pursuant to SFAS No. 159 amounted to $110 million at June 30, 2008 and March 31, 2008.

76. On August 29, 2008, the Company issued a press release announcing that it had agreed to sell "loan and servicing assets assets *[sic]* of its U.S. mortgage subsidiary Popular Financial Holdings (PFH) to various Goldman Sachs affiliates. The sale includes approximately $1,170 million in loans and mortgage servicing assets. The transaction, expected to close in the fourth quarter of 2008, will provide more than $700 million in additional liquidity and significantly reduce Popular's U.S. subprime assets. Popular expects to report a loss of approximately $450 million in connection with the transaction." [Translation ours]

77. Defendant Carrión, commenting on the sale, stated, in pertinent part, as follows:

We are continuing to narrow the scope of our mainland U.S. operations that are most exposed to the credit and mortgage markets. by leveraging on our core strengths in Puerto Rico, where we are the undisputed market leader. Indeed, our core retail banking franchise in Puerto Rico is strong and continues to perform well.

78. On September 17, 2008, the Company issued a press release announcing that it "has reached an agreement to purchase from R-G Mortgage Corp., a unit of R-G Financial, the third-party mortgage servicing rights to a mortgage loan portfolio of approximately $5.1 billion." [Translation ours]

79. Defendant Carrión, commenting on the acquisition, stated, in pertinent part, as follows:

> This transaction will further fortify our leading position in Puerto Rico and it is immediately accretive.

80. On September 18, 2008, the Company also announced the "sale of manufactured housing loan assets of its U.S. mortgage subsidiary Popular Financial Holdings, or PFH, to 21st Mortgage Corp. and Vanderbilt Mortgage and Finance, Inc. This transaction will provide approximately $194 million in cash and further reduce its assets at its PFH subsidiary, in conjunction with previously announced assets sales. Popular expects to report a pre-tax loss of approximately $70 million in connection with the sale announced today." [Translation ours]

81. Defendant Carrión commented on the sale declaring, in pertinent part:

> This agreement builds on previous actions we have taken to exit non-strategic markets and strengthen our balance sheet. We still have work to do and will communicate future actions once completed. [Translation ours]

82. Based on this news, the value of the Company's shares rose $3.12 per share, or 40% during the next two business days.

83. On October 22, 2008, Popular issued a press release announcing its results for the third quarter of 2008, the period ending September 30, 2008. For the quarter, the Company reported a net loss of $668.5 million, compared to a net income of $36.0 million in the third quarter of 2007.

84. Defendant Carrión, commenting on the results, stated, in pertinent part, as follows:

> These results are directly related to the decision announced two months ago to sell the assets and discontinue the operations of PFH. We have also taken a partial valuation allowance on our deferred tax assets related to our U.S. operations. We remain well capitalized and have raised liquidity to meet obligations through 2009. We are focused on the profitability of our U.S. operations and we will be taking additional steps to further reduce expenses and to close or consolidate unproductive branches.

85. In connection with the impacts of the Company's financial results in the third quarter, the press release stated, in pertinent part:

> Losses of $457.3 million, net of tax, related to the discontinued operations of the US.-based reporting segment Popular Financial Holdings ("PFH). The losses included writedowns of assets, losses on the sales of loans and restructuring charges recorded in connection with actual sales and scheduled disposition of PFH's assets. Sales of PFH's portfolios in connection with the discontinuance of PFH's operations are expected to result in over $900 million in additional liquidity, of which $198 million was received in September 2008. The loan sales completed in September 2008 and the expected asset sales to Goldman Sachs scheduled for the fourth quarter of 2008, reduce PFH's assets by more than $1.2 billion. The results for the quarter also include the recording of a valuation allowance on deferred tax assets of $171.2 million.
>
> Losses from continuing operations of $211.2 million primarily resulting from a valuation allowance of $189.2 million against the Corporation's deferred tax assets related to U.S. operations and higher provision for loan losses of $165.8 million as a result of higher credit losses, particularly in real estate related loans.

86. On November 3, 2008, the Company issued a press release announcing that it had "completed the sale of the loan and servicing assets of its U.S. mortgage subsidiary Popular Financial Holdings, Inc. to various Goldman Sachs affiliates." [Translation ours]

87. The press release further stated that "[t]he sale would result in a reduction of approximately $900M in loans and mortgage servicing assets that are mainly accounted at fair value, providing Popular with more than $700 million in additional liquidity and significantly reducing Popular's U.S. subprime assets."

88. Defendant Carrión, commenting on the sale, stated, in pertinent part, as follows:

> The closing of this transaction is a major step forward in our efforts to build capital and liquidity, and create a leaner and more efficient business. We continue to focus on reducing the size of our footprint in the mainland U.S. to a level better suited to present economic conditions while taking steps to improve profitability across our business. [Translation ours]

89. On November 18, 2008, the Company issued a press release announcing that it "has received preliminary approval from the U.S. Department of the Treasury (the "Treasury") to participate in its Capital Purchase Program ("CPP") under the Troubled Assets Relief Program ("TARP" by its English acronym). As a result, the Corporation expects that Treasury will purchase $950 million newly issued shares of the Corporation's preferred equity stock."

90. Defendant Carrión stated, in pertinent part, as follows:

> This investment further improves the liquidity and capital position of Popular as we strive to meet the needs of our customers and communities in the current challenging economic environment.

88. *[sic]* These statements were materially false and misleading. Specifically, these statements mislead and did not disclose:

(a) That the Company's deferred tax assets in the U.S. mainland were exaggerated;

(b) That the Company was experiencing rising losses in Puerto Rico and U.S. mainland loans in the construction sector;

(c) That the quality of the loans connected with the remaining mortgages in the U.S. mainland portfolios and other assets were deteriorating and materially exaggerated;

(d) That the Company was experiencing a higher percentage of delinquent loans;

(e) That the origination of new loans in the Company was decreasing; and

(f) As a result of the foregoing, the Company soon would be facing liquidity concerns and would be obligated to cut or eliminate the payment of dividends to its shareholders.

92. Then, on January 22, 2009, Popular issued a press release announcing its financial results for the fourth and final quarter of the year 2008, the period ending December 31, 2008.

93. For the quarter, the Company reported a net loss of $702.9 million.

94. For the year end, the Company reported a net loss of $1.2 billion.

95. Defendant Carrión, commenting on the results, stated, in pertinent part, the following:

> Our disappointing results reflect deteriorating economic conditions both in the U.S. mainland and Puerto Rico, which resulted in substantial loss for the fourth quarter principally caused by a significant increase in the allowance for loan losses and the valuation allowance equal to 100% of the deferred tax asset related to our U.S. mainland operations.[...] The provision for loan losses increased particularly in the construction sector in Puerto Rico and in the U.S. mainland and the mortgage related loans in our U.S. mainland portfolios. Notwithstanding these charges, our Puerto Rico operation produced over $200 million in profits. The $935 million TARP funds provided us with solid regulatory capital ratios, which will permit us to manage through what we expect to be another extremely challenging year.
>
> The integration of the U.S. mainland franchise and our Puerto Rico operation is underway to provide a more nimble organization focused on core banking and achieving the necessary operational synergies.

96. With respect to what impacted the financial results, the press release declared, in pertinent part:

> Higher provision for loan losses by $267.1 million as a result of higher credit losses and increased specific reserves for impaired loans;
>
> Valuation allowance on the Corporation's deferred tax assets related to the U.S. operations of $462.8 million recorded during the fourth quarter of 2008; and
>
> Lower goodwill and trademark impairment losses by $199.3 million due to $21 1.8 million in impairment losses related to E-LOAN'S goodwill and trademark recognized in the fourth quarter of 2007, compared to losses of $12.5 million in the fourth quarter of 2008, consisting principally of $10.9 million in losses related to E-LOAN'S trademark. The trademark impairment losses recorded in 2008 resulted from E-LOAN ceasing to operate as a direct lender in the fourth quarter of 2008.

97. The press release also declared the following:

Net income for the Banco Popular de Puerto Rico ("BPPR") reportable segment for the quarter ended December 31, 2008 amounted to 12.4 million, compared to $80.2 million in the same quarter of the previous year. The financial results were principally impacted by an increase in the provision for loan losses of $112.7 million primarily related to the commercial and construction loan portfolios. During the fourth quarter of 2008, several commercial and construction loans in the BPPR reportable segment reported further deterioration due to current economic conditions requiring their classification as impaired loans under SFAS No. 114 or an increase in their specific reserves. As of December 31, 2008, there were $639 million of SFAS No. 114 impaired loans in the BPPR reportable segment with a related specific allowance for loan losses of $137 million. During this fourth quarter, the Corporation recorded $101 million in provision for loan losses for loans classified as impaired under SFAS No. 114 in the BPPR reportable segment, of which $79 million pertained to residential construction loans.

BPPR's reportable segment net interest income for the fourth quarter of 2008 declined $13.8 million, compared to the same quarter in the previous year. This decrease was principally related to lower volume of investment securities and to lower yields in the loan and investment portfolios, partially offset by lower cost of funds. Despite the impact of the unprecedented market conditions and historical reductions in interest rates by the Federal Reserve ("FED"), the BPPR reportable segment maintained a healthy net interest margin that approximated 3.89% for the quarter ended December 31, 2008, compared to 3.91% in the same quarter of the previous year. Non-interest income increased for the quarter by $10.4 million, or 8%, principally in other service fees and service charges on deposits accounts. Operating expenses in this reportable segment decreased by $3.4 million when comparing quarterly periods. This decline was partly the result of successful control management efforts and reduced compensation tied to financial performance.

Banco Popular North America ("BPNA") reportable segment reported net losses of $349.5 million for the quarter ended December 31, 2008, compared to net losses of $218.3 million in the fourth quarter of 2007. The quarterly financial results were principally impacted by an increase in the provision for loan losses of $156.4 million. The increase in the provision for loan losses considered higher loan net charge-offs, specific reserves for commercial, construction and mortgage loans, as well as the impact of the deterioration in the U.S. residential housing market that has also affected home equity lines of credit and second lien mortgage loans which are behaving as unsecured loans due to devaluation in real estate. This reportable segment also recognized a valuation allowance on deferred tax assets $200.1 million during the fourth quarter of 2008. These unfavorable variances were in part offset by the reduction in impairment losses on intangible assets of E-LOAN which was previously described.

During the quarter ended December 31,2008, the BPNA reportable segment recorded approximately $33.8 million in charges such as severance costs, lease cancellations. and write-downs of intangibles and long-lived assets that were associated to the restructuring plans of its banking operations and E-LOAN. As indicated in the Form 10-Q filed on November 10, 2008, in October 2008, the Corporation's Board of Directors approved a restructuring plan for BPNA with the objective of reducing the size of its banking operations In the U.S. mainland to a level suited to present economic conditions, improve profitability in the short term, increase liquidity and lower credit costs and, over time, achieve a greater integration with corporate functions in Puerto Rico. Also, the Board of Directors approved a plan for E-LOAN to cease operating as a direct lender effective in the fourth quarter of 2008. Refer to the Corporation's Form 10-Q for the quarter ended September 30, 2008 for further information.

The integration of both banking subsidiaries, BPPR and BPNA, under one management continues to be implemented as part of the previously announced restructuring plan for the U.S. operations. The business divisions of retail banking and commercial banking, in addition to administrative and operational personnel, at Banco Popular North America, are now reporting to management in Puerto Rico.

Losses of $75.2 million, net of tax, related to the discontinued operations of Popular Financial Holdings ("PFH") in the U.S. mainland for the fourth quarter of 2008. The net losses for the quarter ended December 31, 2008 corresponding to the discontinued operations included $37.8 million in valuation allowances on the Corporation's deferred tax assets. Also, the net loss included non-interest losses of $24.3 million for the quarter ended December 31, 2008 consisting of additional write-downs in loans accounted at fair value as of year end and the final impact of the sale of assets to Goldman Sachs announced in the third quarter of 2008 and that closed in November 2008. Operating expenses for the discontinued operations amounted to $34.1 million for the fourth quarter of 2008, which primarily included charges related to the final settlement on the sale to Goldman Sachs, personnel costs and other restructuring charges related to the discontinuance of the operations. As of December 31,2008, PFH holds only $13 million in assets, of which $7 million are loans measured at fair value. [Translation ours]

* * *

Net interest income

Net interest income for the fourth quarter of 2008 was $288.9 million, compared with $337.3 million for the fourth quarter of 2007. The decrease was due to a decline of $1.3 billion in average earning assets, together with a reduction of 40 basis points in the net interest margin.

* * *

The decline in average earning assets was due mostly to the runoff of investment securities as part of a strategy of delevering the balance sheet. The reduction in the average balance of investment securities was used to repay short-term borrowings, including repurchase agreements. In the loan portfolio, an increase in average commercial loans outstanding was offset in part by declines in mortgage and auto loans.

The decline in the net interest yield was driven by a reduction in the yield of earning assets. This was caused primarily by the decline in the yield of commercial loans, which have a significant amount of floating rate loans whose yield decreased as the Fed cut the funds rate in 2008. The Fed lowered the federal funds target rate between 400 and 425 basis points from December 31,2007 to December 31,2008. Also contributing to the reduction in the yield of commercial loans is the substantial increase in non-performing loans as described later in this [illegible] release. The Corporation's average cost of funds decreased driven by a reduction in the cost of deposits and short-term borrowings. Offsetting partially the decline in the cost of deposits and short-term borrowings was an increase in the cost of long-term borrowings. During 2008, certain medium-term notes matured which had been issued in previous years at relatively low rates were some replaced with more expensive term funds whose cost reflects the current distressed conditions of the credit markets. Also contributing to the reduction in the net interest yield was the net loss for the year which reduced available funds obtained through capital,

Provision for Loan Losses and Credit Quality

The provision for loan losses in the continuing operations totaled $388.8 million, or 174% of net charge-offs, for the quarter ended December 31, 2008. compared with $121.7 million or 157%, respectively, for the same quarter in 2007, and $252.2 million, or 148%, respectively, for the quarter ended September 30,2008. The provision for loan losses for the quarter ended December 31, 2008, when compared with the same quarter in 2007, reflects higher net charge-offs by $146.2 million, mainly in construction loans by $63.0 million, consumer loans by $28.8 million: commercial loans by $37.0 million, and mortgage loans by $15.1 million. Provision and net charge-off information for prior periods was retrospectively adjusted to exclude discontinued operations for comparative purposes.

The higher level of provision for the quarter ended December 31,2008 was mainly attributable to the continuing deterioration in the commercial and construction loan portfolios due to current economic conditions in Puerto Rico and the U.S. mainland. Credit deterioration trends in the Corporation's commercial loan portfolio are reflected across all industry sectors. The allowance for loan losses for commercial and construction credits has increased, particularly the specific reserves for loans considered impaired. Also, deteriorating economic conditions in the U.S. mainland housing market have impacted the mortgage industry delinquency rates. The Corporation has recorded a higher provision for loan losses in the fourth quarter of 2008 to cover for inherent losses in the mortgage portfolio of the

Corporation's U.S. mainland operations as a result of higher delinquencies and net charge-offs, and consideration of troubled debt restructurings in the mortgage portfolio, principally from the non-conventional business of Banco Popular North America. Furthermore, consumer loans net charge-offs rose principally due to higher losses on home equity lines of credit and second lien mortgage loans of the Corporation's U.S. mainland operations, which are categorized by the Corporation as consumer loans. The deterioration in the delinquency profile and the declines in property values have negatively impacted charge-offs.

Exhibit A provides credit quality data, including certain key credit quality metrics. The allowance for loan losses represented 3.43% of loans held-in-portfolio at December 31,2008, compared with 2.76% at September 30,2008 and 1.96% at December 31,2007. As of December 31, 2008, there were $898 million of SFAS No. 114 impaired loans in the Corporation's continuing operations with a related specific allowance for loan losses of $195 million, compared with impaired loans of $291 million and a specific allowance of $53 million as of December 31, 2007, excluding PFH. During the quarter ended December 31, 2008, the Corporation recorded $150 million in provision for loan losses for loans classified as impaired under SFAS No. 114. As of September 30,2008, there were $753 million of SFAS No. 114 impaired loans in the Corporation's continuing operations with a related specific allowance for loan losses of $131 million.

Non-performing assets of the continuing operations totaled $1.3 billion at December 31,2008. This represented an increase of $192 million since September 30,2008 primarily related to increases in construction loans by $84 million, mortgage loans by $57 million, commercial loans by $24 million, consumer loans by $10 million and other real estate by $17 million. Non-performing assets from continuing operations increased by $672 million from December 31,2007 to the same date in 2008. The increases were mostly reflected in commercial loans by $207 million, construction loans by $230 million, mortgage loans by $168 million, consumer loans by $26 million and other real estate by $40 million.

Non-interest Income

Non-interest income from continuing operations totaled $141.5 million for the quarter ended December 31,2008, compared with $190.6 million for the same quarter in 2007. The unfavorable variance in non-interest income was principally as a result of an increase in lower of cost or fair value adjustments in loans reclassified to held-for-sale, primarily related to a lease portfolio from the U.S. mainland operations, lower gains on the sale of SBA commercial loans due to lower volume sold, and higher impairments on investments accounted under the equity method.

Operating Expenses

Operating expenses for the continuing operations totaled $360.2 million for the quarter ended December 31, 2008, a decrease of $211.9 million, or 37%, compared with $572.1 million for the same quarter of 2007.

As indicated earlier in this press release, E-LOAN and BPNA commenced to cany out further restructuring of its operations during the fourth quarter of 2008. For the quarter ended December 31, 2008, operating expenses for the continuing operations included approximately $33.8 million in costs associated to the restructuring plans in place at the subsidiaries. including impairments on E-LOAN'S trademark and other long-lived assets, compared to approximately $231.9 million in 2007, which also included impairment losses associated to E-LOAN'S goodwill, Isolating the impact of these restructuring related costs, operating expenses totaled $326.4 million for the quarter ended December 31,2008, compared to $340.2 million for the quarter ended December 31, 2007. The decrease was principally due to lower business promotion expenses and personnel costs, including the impact of the downsizing of E-LOAN'S operations in early 2008 as well as lower compensation tied to financial performance.

Income Taxes

Income tax expense from continuing operations amounted to $309.1 million for the quarter ended December 3 1,2008, compared with an income tax benefit of $15.4 million for the same quarter of 2007 As previously indicated, the variance was primarily due to the establishment of a full valuation allowance on the deferred tax assets of the U.S. mainland operations, as well as the impact of higher operating losses.

The Corporation's net deferred tax assets (prior to deducting the valuation allowance) amounted to $1.2 billion as of December 31, 2008, of which $848 million pertains to the U.S. mainland operations. As of December 31, 2008, the Corporation recorded a total valuation allowance of $861 million on the deferred tax assets of the Corporation's U.S. operations. This full valuation allowance was recorded in consideration of the requirements of SFAS No. 109 "Accounting for Income Taxes" ("SFAS No. 109") which states that a deferred tax asset should be reduced by a valuation allowance if based on the weight of all available evidence, it is more likely than not (a likelihood of more than 50%) that some portion or all of the deferred tax asset will not be realized. The determination of whether a deferred tax asset is realizable is based on weighting all available evidence, including both positive and negative evidence. SFAS No. 109 provides that the realization of deferred tax assets, including carryforwards and deductible temporary differences, depends upon the existence of sufficient taxable income of the same character during the carryback or carryforward period. SFAS No. 109 requires the consideration of all sources of taxable income available to realize the deferred tax asset, including the future reversal of existing temporary differences, future taxable income exclusive of reversing temporary differences and carryforwards, taxable income in carryback years and tax planning strategies.

The Corporation's U.S. mainland operations are in a cumulative loss position for the three-year period ended December 31, 2008. For purposes of assessing the realizability of the deferred tax assets in the U.S. mainland, this cumulative taxable loss position, along with the evaluation of all sources of taxable income available to realize the deferred tax asset, as discussed above, is considered significant negative evidence and has caused management to conclude that the Corporation will not be able to fully realize the deferred tax assets in the future, considering solely the criteria of SFAS No. 109. Management will reassess the realizability of the deferred tax assets based on the criteria of SFAS No. 109 each reporting period. If future events differ from management's year-end 2008 assessment, a partial reversal of the valuation allowance may be required in future years. An important consideration, although not sufficient positive evidence to overcome the negative evidence under SFAS No. 109, is that the net operating loss carryforwards of the Corporation's U.S. operations have an expiration term of 20 years. To the extent that the financial results of the U.S. operations improve and the deferred tax asset becomes realizable, the Corporation will be able to reduce the valuation allowance through earnings.

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Investment securities

The Corporation's portfolio of investment securities available-for-sale and held-to-maturity totaled $8.2 billion at December 31,2008, compared with $8.3 billion at September 30,2008 and $9.0 billion at December 31, 2007. The Corporation holds investment securities primarily for liquidity, yield enhancement and interest rate risk management. The portfolio primarily includes very liquid, high quality debt securities. The decline in the Corporation's available-for-sale and held-to-maturity investment portfolios from December 31, 2007 to the same date in 2008 was mainly associated with the maturities of securities.

98. In response to this announcement, the price of the company's common stock fell $2.52 per share, or 50%, to close at $2.46 per share, with strong trading volume.

99. On April 21, 2009, the company issued a press release to announce its financial results for the first quarter, the period ending March 21, 2009. For the quarter, the Company reported a net loss of $52.5 million, in comparison to a net earnings of $103.3 million for the first quarter of 2008. The company also reported that its continuing operations experienced a net loss of $42.6 million for th first quarter of 2009, in comparison to net earnings of $99.2 million during the

same quarter of the previous year. When commenting on the results, Defendant Carrión declared, in pertinent part, as follows:

We continue strengthening our reserves and the consolidation of our operations. Significant facts in this quarter include earnings from the sale of $183 million in investment securities to improve the regulatory capital and a reduction of $56 million in operating expenses associated with the continuing re-engineering of our U.S. operations. We have also assigned our U.S. commercial equipment financing business to reduce exposure to risk. Although the net amount of loan losses declined during the quarter, we are increasing our reserve balance due to a continued increase in reserve specific deteriorated loans.

With respect to the loan losses from Popular and the credit quality, the press release indicates in pertinent part:

Non-performing assets attributable to the continuing operations totaled $1.5 million as of March 31, 2009, in comparison to $1.3 billion as of December 31, 2008, and $0.8 billion as of March 31, 2008. The increase in non-performing assets from December 31, 2008 to March 31, 2009, was mainly connected with increases in construction loans ($116 million), commercial loans ($60 million), mortgage loans ($41 million), and consumer loans ($10 million). Overdue commercial loans and construction loans increased both in Puerto Rico and the U.S. mainland. Overdue construction loans are mainly residential, loans for real estate construction which have been adversely affected by the general market conditions, declines in property values, and excess offer in certain zones. The highest level of overdue residential mortgages is mainly attributed to Banco Popular North America in the non-conventional mortgage business and Puerto Rico's residential mortgage portfolio. The increase in overdue consumer loans was mainly due to the mortgage credit lines and the second mortgage loans in the U.S. mainland, which are classified by the Corporation as consumer loans. Non-performing assets of the continuing operations increased $722 million from March 31, 2008 for the same date in 2009. The increases are reflected in construction loans ($269 million), commercial loans ($198 million), mortgage loans ($188 million), consumer loans ($23 million), and other real properties ($41 million).

100. During the referenced period, defendant allowed the company to materially mislead the investing public, *[sic]* by inflating the price of Popular's common shares, by issuing false and misleading public statements, while omitting materially adverse data that would have made the statements of the Company, as set forth herein, fully precise *[sic]*. During the referenced period,

defendants made or caused to be made a series of materially false or deceitful statements regarding Popular's businesses, financial perspectives, and operations.

A DEMAND OF OF *[sic]* THE BOARD IS FUTILE

101. Plaintiff has not made a demand to the Board of Directors to present the claims alleged herein because such demand would have been useless. At the time this derivative action was filed, and at the present time, Popular's Board consists of nine (9) members: Richard L. Carrión (President of the Board, and CEO), Francisco M. Rexach, Jr. Bermúdez *[sic]* (Chair of the Corporate Governance Committee and the Nominating Committees and member of the Audit Committee and of the Compensation Committees *[sic]*)[,] Juan J. Bermúdez (Chair of the Compensation Committee and member of the Audit Committee and Corporate Governance and Nominating Committees *[sic]*), Michael J. Masin (member of the Risk Management and of Corporate Governance and the Nominating Committees), Manuel Morales, Jr. (Member of the Compensation and the Risk Management Committees), José R. Vizcarrondo (member of the Risk Management Committee), María Luisa Ferré (member of the Compensation and Corporate Governance and Nominating Committees), Frederic V. Salerno (Chair of the Audit Committee and member of the Risk Management and Corporate Governance and Nominating Committee), and William J. Teuber, Jr. (Chair of the Risk Management Committee and member of the Audit Committees). Each of these members of the Board has been named a defendant in this action. In addition, Defendant Carrión has been named as a defendant in several securities fraud class action cases. As detailed hereinbelow, each of the directors faces a substantial probability of liability in the derivative claims purported here and, therefore, it cannot make a disinterested judgment as to whether the company

should carry such claims and/or lacks sufficient independence with which to dictate a disinterested decision as to whether to pursue the derivative claims against the individual defendants.

102. Each of the defendants faces a substantial risk of liability in this action as a result of their failure, as a director, to ensure that the reliable financial and information control systems and the presentation of reports were effectively up and running. The dramatic disruptions and deficiencies of such controls were so generalized and systematic that each of the defendants faces considerable exposure to liability for the total abrogation of their supervisory duty.

103. Each of these directors knew or should have known that the statements in the company's press releases and to the SEC were materially false and misleading as outlined above. Each Director knew that those statements or documents are published or released to the investing public and they knew and substantially participated in or consented to the publication or releasing of such statements or documents. Each Director knew or should have known that the company lacked adequate internal controls. Defendants did not take any good faith measure to prevent or remedy the situation. Therefore, any demand made to defendants would have been useless.

104. At all times pertinent to the present Complaint, Defendant Richard L. Carrión personally participated in the issuance of false and/or deceitful statements in the press releases issued to the public and filed with the SEC. Carrión was also personally cited in these statements. As a result of that, Defendant Carrión faces a considerable risk of liability for the same. Therefore, any demand made to him would be useless.

104. In addition, Carrión is exposed to possible liability in this cause of action for his complete failure to put into effect adequate financial information reporting systems, and information

in general, and compliance with the legal controls to ensure the accuracy of the financial and other information disclosed by the Company to the public and, thus, avoid the spreading of false and deceitful information to the public.

105. Plaintiff files this derivative action in law and on behalf of Popular to repair the damages suffered and that may be suffered by Popular as a result of the breaches by the individual defendants of their fiduciary duties.

106. Plaintiff will adequately and fairly represent the interests of Popular and of its shareholders in the application and validation of their rights.

IMPORTANT ADDITIONAL PROBABILITY OF SUBSTANTIAL LIABILITY FOR THE DEFENDANTS IN THE AUDIT COMMITTEE

107. Defendants Salerno (Chair), Bermúdez, Rexach, and Teuber were, at the pertinent time, members of the Audit Committee of the Company's Board of Directors. The Audit Committee is responsible, in its Bylaws, for examining and discussing, with management and the independent auditors, the issuance of Popular's earnings. The Audit Committee is also in charge of examining Popular's internal auditing and reviewing the reports on the operation of the company's internal controls design. Thus, the Audit Committee is in charge of supervising and participating directly in Popular's financial information process. As a result, Defendants Salerno, Bermúdez, Rexach, and Teuber breached their fiduciary duties of diligence, loyalty, and good faith, because the Audit Committee did not disclose material facts to the investors during the referenced period. In addition, Popular's deficient internal control structure allowed the company to issue false and deceitful press releases during the referenced period. In particular, these defendants reviewed and failed to correct

Popular's inappropriate press releases during the referenced period. The members of the Audit Committee knew or should have known about the financial misrepresentations described above, given their size, scope, and exaggeration. This conduct is not protected by the standard of judgment for businesses. As a result of these misrepresentations, defendants face a substantial risk of liability for the breach of their fiduciary duties and any demand of them to comply would be in vain.

108. Defendants Salerno and Teuber have also been classified by the Board as "financial experts" for the Audit committee as the term is defined in the SEC's standards and the regulations. In view of that, and taking into account Salerno's position as Chair of the Audit Committee, Defendants Salerno and Teuber and *[sic]* face an even greater risk of substantial liability given that the manipulations and misrepresentations were carried out under their expert eyes. As a result, Defendants Salerno and Teuber face a considerable risk of liability for the violation of their fiduciary duties and any demand for compliance would be useless.

ADDITIONAL SUBSTANTIAL PROBABILITY OF LIABILITY BY DEFENDANTS' COMPENSATION COMMITTEE

109. Defendant Directors Rexach (Chair), Bermúdez, Morales, Ferré, and Teuber have an additional responsibility as members of the Compensation Committee. In these positions, the compensation and financing plans of the high-ranking executives, including Defendant Carrión (described hereinbelow) were approved, so that thousands of dollars were paid by the company based on the financial results that have turned out to be based on deceitful information and were materially inflated. The members of the Compensation Committee knew or should have known about the financial misrepresentations described above, given their size, scope, and exaggeration. As a result,

these defendants face a sufficiently significant risk of liability for breaching their fiduciary duties and any demand made of them would be useless.

ADDITIONAL SIGNIFICANT PROBABILITY OF LIABILITY FOR THE DEFENDANTS MEMBERS OF THE RISK MANAGEMENT COMMITTEE

110. Defendant Directors Teuber (Chair), Masin, Morales, Vizcarrondo, and Salerno are even more exposed to liability as members of the Risk Management Committee. The Risk Management Committee helps the Board follow-up on policies and procedures to measure, limit, and control the Corporation's risk and to try to maintain the efficacy and efficiency of the operating and business processes. It also helps the Board in ascertaining the risks to the Corporation from policies and procedures. The members of the Risk Management Committee did not adequately realize the magnitude of the risks associated with loans in the construction sector of Popular in Puerto Rico and the U.S. to advise the Board to develop Popular's loan practice appropriately. Therefore, due to the substantial liability of Defendants Teuber, Masin, Morales, Vizcarrondo, and Salerno, a demand of any of them would be useless.

THE MEMBERS OF THE BOARD OF DIRECTORS LACK INDEPENDENCE

111. Defendant Carrión is the current President of the Board of Directors, and CEO. His main occupation is his job with Popular. In 2007 and 2008, the Company paid Carrión $741,600 in basic salary. In addition, Defendant Carrión received $31,055 in bonuses in 2007, and $31,060 in 2008. In 2007, he was given $951,337 in awards in shares. He was given $25,779 in capital incentives compensation in 2007. He received $304,146 in "other compensations" in 2008, and $260,677 in 2007. In total, Defendant Carrión received $3,871,250 as compensation by Popular

from 2007 to 2008. Due to his job with Popular, Defendant Carrión is in debt with the company and he lacks the sufficient independence necessary to dictate a disinterested decision of whether to pursue the derivative claims against the individual defendants.

112. Defendant Vizcarrondo is a director of the Company, as well as nephew of the President of Popular, President and CEO, Defendant Carrión. In his position as Director of Defendant, Vizcarrondo received $90,251 in compensation in 2008. Since Defendant Vizcarrondo and Defendant Carrión have close personal and family relations, which has resulted in important financial advantages to each of them, they lack sufficient independence with which to issue a disinterred decision as so whether to present derivative claims between them or with the individual defendants. A demand to defendant Vizcarrondo would be useless.

113. Defendant Vizcarrondo has been president of Desarrollos Metropolitanos LLC ("Metropolitanos") since 2004, a business of the real estate development firm in Puerto Rico. Metropolitanos is totally dependent on the lines of credit with Popular to maintain its business operations. If Popular were to withdraw the lines of credit, Metropolitanos would find itself in a dire financial condition. Due to defendant Vizcarrondo's dependence on Popular's lines of credit, he is incapable of considering a derivative complaint disinterestedly to claim against the individual defendants, therefore, the demand would be useless.

114. Popular was induced by its management and the Board of Directors to commit to donate $500,000 to the Luis A. Ferré Foundation between 2005 and 2010. The donation was with the purpose of remodeling the Ponce Art Museum. Defendant María Luis Ferré is the president and administrator of the Luis A. Ferré Foundation. In 2008, the Company made a contribution of an

additional $50,000 to the Luis A. Ferré Foundation. Due to her position with the Luis A. Ferré Foundation, the donations were approved by the Administrative Committee, and given her desire to continue receiving donations to the Luis A. Ferré Foundation, from Popular, Defendant Ferré lacks the sufficient independence necessary to issue a disinterested decision as to whether to file claims against the derivative individual Defendants. A demand to defendant Ferré would be useless.

115. Two children and a daughter-in-law of defendant Rexach are employed by the company as Vice President of the Construction Loans Management Division, Project Coordinator for the Individual Loan Service Division, and Assistant to the Vice President of the Trust Division. In total, they received $223,000 in compensation in 2008. The future employment of the children and the daughter-in-law of defendant Rexach are subject to the good will of Defendant Carrión, as such, Defendant Rexach cannot consider that *[sic]* a demand for a Complaint against derivative defendant Carrión with sufficient independence. A demand to defendant Rexach would be useless.

116. The son of defendant Morales works for the company as Senior Vice President of the EVER TEC, Inc., System Development Division, a subsidiary of Popular. He received $196,422 in compensation in 2008. The future employment of defendant Morales' son is subject to the goodwill of Defendant Carrión, *[sic]* as such, Defendant Morales cannot consider that *[sic]* a demand to file a Complaint against derivative defendant Carrión with sufficient independence. A demand to defendant would be useless.

117. The brother of Defendant Vizcarrondo is employed as Vice President in the Commercial Division of Popular's Business Administration. In 2008, Defendant Vizcarrondo's brother received $200,322 in compensation. The future employment of Vizcarrondo's brother is

subject to the goodwill of Defendant Carrión, *[sic]* as such, Defendant Vizcarrondo cannot consider a demand for a Complaint against derivative defendant Carrión with sufficient independence. A demand to Vizcarrondo would be useless.

118. Defendants Masin and Salerno both acted as directors of Communications of Versión *[sic]*, from 2000 to 2002. Defendant Carrión acted as director of Communications of Versión *[sic]* from 1995 to the Present. Defendant Carrión personally selected Defendants Masin and Salerno to act as members of the Board due to the relations developed during his tenure on the Board of Directors of Versión *[sic]* Communications. As a result of these close personal and professional relations, Defendant's Carrión, Masin, and Salerno each lack sufficient independence to issue a disinterested decision as to whether to file derivative Complaints among each other or with the individual defendants.

119. Due to the influence of defendant Carrión and his control of the Board, the entire Board lacks sufficient independence to issue a disinterested decision as to whether claims should be filed against the individual derivative Defendants. Defendant Carrión has consolidated his position of power and control through the generous dispensing of corporate funds to the charitable organizations that co-members of the Board and the interest *[sic]* possess and through the contracting of relatives of his individual codefendants in lucrative positions of great scope within the Company and its subsidiaries. Through the granting of these favors, Defendant Carrión has created a dominant position over the Board and a demand to the Board to initiate legal actions against Carrión and the other individual Defendants would be useless.

120. In addition, Popular's corporate structure is such that Carrión is allowed to select a Board of his choice and the members of the Board may be *[sic]* hold their positions for up to three years before the shareholders are allowed to vote on their performance. This structure reinforces Carrión's influence and diminishes the shareholders' power, since the directors can feel secure in their positions knowing that it will be three years from the moment of their appointment before the shareholders are authorized to give an opinion as to their performance.

DEFENDANT MORALES' ILLEGAL SALE OF SHARES

121. Defendant Director Morales sold 175,000 of his personal shares in Popular just weeks before the truth about the company's misrepresentations and financial situation was disclosed to the investing public. Morales received $936,500 in net income. Because he received an enormous amount of funds from these transactions from privileged information, Morales lacks sufficient independence with which to issue a disinterested decision as to whether to pursue the derivative claims against the individual defendants. In addition, Morales faces a significant threat of liability for the breach of his fiduciary duty with the sale based on privileged information. Since he has breached his fiduciary duty and he is interested, a demand to Morales is would be useless.

122. Popular has spent and will continue to spend significant sums of money as a result of the illegal and improper acts described above. Such expenses include, but are not limited to:

> The expenses carried out to conduct internal investigations, including the legal fees paid to the external attorneys, accounting firms, and consultants, and
>
> Auditing fees and expenses and the loss of goodwill.

In addition, a demand would be in vain and useless for the following reasons:

Defendant Carrión is not an independent director of Popular. Carrión is in debt to the company due to his condition as a salaried employee. Defendant Carrión received $3,871,250 from 2007 to 2008;

Defendants Bermúdez, Rexach, Salerno, and Teuber are members of the Board's Audit Committee and due to their lack of supervision there is a substantial probability of their liability;

Defendants Bermúdez, Rexach, Morales, Ferré, and Teuber are members of the Board's Compensation Committee and they inappropriately gave compensation and benefits based on false financial statements;

Defendant Vizcarrondo is the nephew of defendant Carrión;

Defendant Ferré has received from Popular at least $550,000 in donations for her charitable foundation;

The two children and the daughter-in-law of Defendant Rexach are employees of Popular and work under Carrión's authority;

The son of defendant Morales is contracted by a subsidiary of Popular and works under Carrión's authority;

The brother of defendant Vizcarrondo is employed by Popular and works under Carrión's authority;

Defendants Massin, Salerno, and Carrión developed a close personal and professional relationship during their service on the Versión *[sic]* Communications' Board.

Defendant Carrión has dominance over the Administrative Committee;

The defendant Directors of Popular, as more fully detailed herein, approved and/or permitted the grievances alleged in this Complaint and participated in the efforts to conceal or hide these errors from Popular's shareholders or with rash imprudence or negligent disregard for the errors complained of in this Complaint and, therefore, are not disinterested parties. Each of the defendant Directors exhibited a systematic lack of failure to comply with their fiduciary duties, which would not have been an exercise of good business judgment and amount to negligence and extreme imprudence;

In order to file this Complaint, Popular's Directors would be forced to sue each other and the persons with whom they have significant business and personal involvements, which they will not do, which excuses the need for a demand for a complaint;

The acts denounced constitute breaches of fiduciary obligations by officers and directors of Popular and these acts are not capable of ratification;

Popular has been and will continue being exposed to significant losses due to the alleged irregularities denounced herein, *[sic]* however, the defendant Directors and the current Board have not filed complaints against each other or other persons who were responsible for the illicit behavior of intent *[sic]* of Popular to recover any part of the damages that the Company has suffered and will continue suffering;

The directors' actions have undermined the Board's capacity to validly exercise its business judgment and has made it incapable of reaching an independent decision as to whether to accept plaintiff's demands;

Any complaints by Popular's directors to remedy these ills will probably expose the Defendant Directors and Popular to more violations of the securities laws that might provoke the appearance of civil actions filed against one or several of the defendant Directors. In view of that, they are irremediably in conflict with the making of any purportedly independent decision as to whether to sue themselves.

123. Plaintiff has not made a demand to Popular's shareholders to initiate this action since the demand [for a] complaint would be a useless act and a waste, for the following additional reasons:

Popular is a public company with approximately 282 million shares and thousands of shareholders;

Making a demand to such a number of shareholders would be impossible for plaintiff, who does not have any way of finding out the names, addresses, or telephone numbers of all of the shareholders, and

Making a demand to all of the shareholders would force plaintiff to incur in significant expenses, assuming that all of the shareholders could be identified individually.

FIRST CAUSE OF ACTION

Against the Individual Defendants for Breach of Their Fiduciary Duty

124. Plaintiff incorporates by reference and reaffirms each and every one of the allegations made about as if they were re-alleged herein.

125. The individual defendants owed and owe to Popular fiduciary obligations. Due to their fiduciary relations, defendants are required to act with the highest obligation of good faith, fair treatment, loyalty, and due diligence.

126. The individual defendants breached their fiduciary duties of attention, loyalty, reasonable inquiry, good faith, and supervision.

127. The individual defendants had real or constructive knowledge that induced the company to falsely represent the company's financial situation and not correcting the company's press releases and financial orientations could not have been have been *[sic]* an exercise in good faith and prudent business judgment to protect and promote the company's corporate interests.

128. As a direct and immediate result of the individual defendants' failing to carry out their fiduciary obligations, Popular has suffered significant damages. Consequently, defendants are liable to the Company for the misconduct alleged in this Complaint.

129. Plaintiff, on behalf of Popular, does not have an adequate remedy at law.

SECOND CAUSE OF ACTION

Against the Individual Defendants for Abuse of Control

130. Plaintiff incorporates by reference and reaffirms each and every one of the allegations made about as if they were re-alleged herein.

131. The misconduct of the individual defendants which is alleged in this Complaint constitutes an abuse of their capacity to control and influence Popular, for which they are legally responsible.

132. As a direct and immediate result of the individual defendants' undue abuse, Popular has suffered significant damages.

133. As a result of the alleged misconduct herein, the individual defendants are responsible to the Company.

134. Plaintiff, on behalf of Popular, does not have an adequate remedy at law.

THIRD CAUSE OF ACTION

Against the Individual Defendants for Mismanagement

135. Plaintiff incorporates by reference and reaffirms each and every one of the allegations made about as if they were re-alleged herein.

136. For their actions alleged in this Complaint, the individual defendants, whether directly or through complicity, abandoned and abdicated their responsibilities and fiduciary obligations with respect to the rational management of Popular's assets and business in a manner consistent with the operations of a Corporation that is traded on the Stock Market.

137. As a direct and immediate result of the mismanagement [by] the individual defendants and the violations of the law alleged in this Complaint, Popular has suffered significant damages in excess of millions of dollars.

138. Plaintiff, on behalf of Popular, does not have an adequate remedy at law.

FOURTH CAUSE OF ACTION

Against the Individual Defendants for Squandering the Corporate Assets

139. Plaintiff incorporates by reference and reaffirms each and every one of the allegations made about as if they were re-alleged herein.

140. As a result of the improper conduct of the individual defendants in not adequately considering the interests of the company and its public shareholders in not carrying out adequate control, the individual defendants have caused Popular to squander viable assets of the company through the payment of bonuses to some of its executives and to incur in potentially millions of dollars in legal liability and/or legal costs to defend the illegal acts [of] the individual defendants.

141. As a result of the loss of the company's assets, the individual defendants are liable to the Company.

142. Plaintiff, on behalf of Popular, does not have an adequate remedy at law.

FIFTH CAUSE OF ACTION

Against the Individual Defendants for Unjust Enrichment

143. Plaintiff incorporates by reference and reaffirms each and every one of the allegations made about as if they were re-alleged herein.

144. By their illegal acts and omissions, defendants were unjustly enriched at the expense of, and in detriment to, Popular.

145. Plaintiff, as a shareholder and representative of Popular, seeks restitution from the individual defendants, and seeks an order from this Court that returns to all the benefits, considerations, and other remuneration obtained by the individual defendants, from their illicit behavior and fiduciary breaches.

PRAYER

WHEREFORE, plaintiff very respectfully prays that this Complaint be granted declaring:

A. Against the Individual Defendants and in favor of the Company for the amount of the damages sustained by the Company as a result of the breaches of the Individual Defendants' fiduciary duties, the abuse of control, mismanagement, squandering of corporate assets, and unjust enrichment;

B. Extraordinary remedy of injunction in equity in accordance with the Puerto Rico Rules of Civil Procedure, including the imposition of a constructive trust on the Company's assets to assure a judgment;

C. Granting to Popular restitution by the Individual Defendants jointly and severally and ordering the repayment of all earnings, profits, and other compensation received by such Defendants;

D. Granting to Plaintiff the expenses of the case, including reasonable attorneys' fees due to temerity; and,

E. Granting any other remedy in law that the Honorable Court deems appropriate.

Today, September 9, 2009, in San Juan, Puerto Rico.

(Signed)
Jane Becker Whitaker
Bar Assoc. No. 10742
LAW OFFICES
OF JANE BECKER WHITAKER
416 Ponce de León, 18th Floor
San Juan, PR 00918
Telephone: (787) 754-9191
Fax: (787) 764-3101
janebeckerwhitaker@yahoo.com

CERTIFICATION
I, Olga M. Alicea, an English-Spanish Interpreter and Translator certified to that effect by the Administrative Office of the U.S. Courts and by the National Association of Judiciary Interpreters & Translators, do hereby certify that the foregoing is a true and accurate translation from Spanish to English. Certification applies only to the signed original.

S/ Olga M. Alicea — 10/5/09
Olga M. Alicea, USCCI, NCJIT-S — Date
Fed. Cert. No. 98-005